

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

September 20, 2004

At 9:35 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Morrison, Associate Justice; and Guzman, bailiff.

C037332 UHRICH v. AMERICAN HOME ASSURANCE COMPANY

Cause called. Stephen E. Norris argued for appellant. E. Elizabeth Summers argued for respondent. Cause submitted.

At 10:09 a.m., the court recessed. At 10:13 a.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

**C041749 CENTRAL DELTA WATER AGENCY et al. v. STATE WATER RESOURCES
CONTROL BOARD et al. and DELTA WETLANDS PROPERTIES et al.**

Cause called. Dante John Nomellini, Jr. argued and Dante John Nomellini and Deeanne Gillick appeared only for plaintiffs-appellants. Mark W. Poole, Deputy Attorney General, argued for defendants-respondents. Steven A. Herum argued and Peter J. Kiel appeared only for RPIs-respondents. Cause submitted.

At 10:46 a.m., the court recessed. At 10:51 a.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C045217 GOBEL, as Executor, etc. v. VIERA, et al.

Cause called. C. Athena Roussos argued for appellants. David R. Nelson argued for respondent. Cause submitted.

At 10:51 a.m., the court recessed. At 11:12 a.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C043483 NELSON v. STATE OF CALIFORNIA et al.

Cause called. Jacob M. Weisberg argued for appellant and submitted additional citations. Joseph P. Mascovich argued for respondents Union Pacific Railroad et al. Jeffrey Mason Phillips argued for respondents State of California et al. Cause submitted.

At 11:46 a.m., the court recessed. At 11:50 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

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C040993 THE PEOPLE v. O'ROY

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. David Andrew Eldridge, Deputy Attorney General, argued for respondent. Cause submitted.

At 12:04 p.m., the court recessed. At 2:03 p.m. the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Davis, Associate Justice.

C045008 THE PEOPLE v. CLEMON

Cause called. Robert Wayne Gehring, court appointed counsel, argued for appellant. J. Robert Jibson, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:22 p.m., the court recessed. At 2:32 p.m., the the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Butz, Associate Justice.

C042595 THE PEOPLE v. SAECHAO et al.

Cause called. Robert Wayne Gehring, court appointed counsel, argued for appellant N. Saechao. David McNeil Morse court appointed counsel, argued for appellant S. Saechao. Judy Kaido, Deputy Attorney General, and David Andrew Eldridge, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:04 p.m., the court recessed. At 3:11 p.m. the court reconvened with Raye, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

C041384 HODGSON, a Minor etc., et al. v. BANNER LIFE INSURANCE COMPANY et al.

Cause called. Douglas K. DeVries argued for appellants. Michael F. Bell argued for respondents Banner Life Insurance et al. Lawrence J. Rose argued for respondent BISYS Insurance. Cause submitted.

At 3:49 p.m., the court recessed until 9:30 a.m, Tuesday, September 21, 2004.

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- C043962 THE PEOPLE v. BERGEY (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Scotland, P.J.
Butz, J.
- C044852 THE PEOPLE v. WISEMAN, III (Not for Publication)**
The trial court is ordered to modify... The trial court shall forward a certified copy of the corrected order to defendant and his probation officer. In all other respects, the judgment is affirmed.
Raye, J.
We concur: Blease, Acting P.J.
Nicholson, J.
- C041958 KLAMATH RIVER DEVELOPMENT COMPANY v. WISBAUER (Not for Publication)**
The judgment is reversed and the matter is remanded to the trial court with directions to enter an order granting Wisbauer's special motion to strike pursuant to section 425.16. Wisbauer is awarded attorney fees and costs incurred in the trial court and on appeal, in an amount to be determined by the trial court on remand on a sufficient showing by Wisbauer. (§ 425.16, subd. (c).)
BUTZ, J.
We concur: Nicholson, Acting P.J.
Robie, J.
- C045912 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY v. GRISHAM (Certified for Publication)**
The judgment is affirmed.
DAVIS, Acting P.J.
We concur: Nicholson, J.
Morrison, J.

September 21, 2004

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Nicholson, Associate Justice; and Facey, bailiff.

- C045664 CITY OF WEST SACRAMENTO et al. v. THE SUPERIOR COURT OF YOLO COUNTY and GIBSON**
Cause called. J. Scott Smith argued for petitioners. R. Ellis Harper argued for real party in interest. Cause submitted.

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At 10:16 a.m., the court recessed. At 10:20 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

C043149 THE PEOPLE v. TATE

Cause called. Linda M. Leavitt, court appointed counsel, argued for appellant. Jamie A. Scheidegger, Deputy Attorney General, argued for respondent. Cause submitted.

C045235 In re DUSTIN V.; THE PEOPLE v. DUSTIN V.

Cause called. William A. Welch argued for appellant. Angelo Edralin, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:21 a.m., the court recessed. At 2:04 p.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; Sims, Associate Justice.

C042795 THE PEOPLE v. CLARK

Cause called. Cara DeVito, court appointed counsel, argued for appellant. Angelo S. Edralin, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:28 p.m., the court recessed. At 2:31 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; Robie, Associate Justice.

C044657 THE PEOPLE v. BRIGGS

Cause called. Michael Satris, court appointed counsel, argued for appellant. John A. Thawley, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:55 p.m. the court recessed until 9:30 a.m., Wednesday, September 22, 2004.

C044265 THE PEOPLE v. SIMMS

(Not for Publication)

The judgment is affirmed.

DAVIS, Acting P.J.

We concur: Morrison, J.

Butz, J.

C044302 WRIGHT v. STATE OF CALIFORNIA et al. (Certified for Publication)

The judgment is affirmed. (*Certified for Publication*)

NICHOLSON, Acting P.J.

We concur: Hull, J.

Robie, J.

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- C045160** **In re C.R. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. JOHN R.** **(Not for Publication)**
 The judgment is affirmed.
 Hull, J.
We concur: Scotland, P.J.
 Butz, J.
- C046180** **In re U.A.; YOLO COUNTY DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES v. YVONNE M.** **(Not for Publication)**
 The judgment is affirmed.
 Robie, J.
We concur: Sims, Acting P.J.
 Nicholson, J.
- C046300** **In re ISAIAH C.; SACRAMENTO DEPARTMENT OF HEALTH AND HUMAN SERVICES v. MILENA S. et al.** **(Not for Publication)**
 The order of the juvenile court terminating the parental rights of Milena S. and Tarone C. is affirmed.
 SIMS, Acting P.J.
We concur: Raye, J.
 Butz, J.

September 22, 2004

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Hull, Associate Justice; Butz, Associate Justice; and Rios, bailiff.

- C041457** **GRANDA v. FORD MOTOR COMPANY**
 Cause called. Kimball Sargeant argued for appellant. Janice K. O'Grady argued for respondent. Cause submitted.

At 10:02 a.m., the court recessed. At 10:07 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

- C039846** **THE PEOPLE v. KEITH**
 Cause called. Valerie Hriciga, court appointed counsel, argued for appellant. Julie A. Hokans, Deputy Attorney General, argued for respondent. Cause submitted.

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At 10:10 a.m., the court recessed. At 10:16 a.m., the court reconvened with Morrison, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

C042456 THE PEOPLE v. SONG

Cause called. Raymond J. Simmons argued for appellant. Clifford Zall, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:33 a.m., the court recessed. At 10:35 a.m., the court reconvened with Hull, Associate Justice; Robie, Associate Justice; and Butz, Associate Justice.

C040523 PLACER RANCH, INC. v. WESTERN PLACER WASTE MANAGEMENT AUTHORITY

Cause called. Timothy M. Taylor argued and Nicholas A. Jacobs appeared only for appellant. Scott Hammel argued and Byron H. Done appeared only for respondent. Cause submitted.

At 11:07 a.m., the court recessed. At 2:04 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Raye, Associate Justice.

C042328 THOUSAND TRAILS, INC. et al. v. CALIFORNIA RECLAMATION DISTRICT NUMBER 17

Cause called. Bernard E. Lesage argued for appellant. Gregory P. O'Dea argued for respondent. Cause submitted.

At 2:39 p.m., the court recessed. At 2:44 p.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

C043368 ROSE v. GRAHAM et al.

Cause called. Lynne G. Stocker argued for appellant. Danielle Guard argued for respondent. Cause submitted.

At 3:36 p.m., the court recessed. At 3:41 p.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C043780 THE PEOPLE v. PALAGHIUC

Cause called. Madeline McDowell, court appointed counsel, argued for appellant. Jamie A. Scheidegger argued for respondent. Cause submitted.

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At 4:07 p.m., the court recessed until 9:30 a.m., Thursday, September 23, 2004.

- C045364 THE PEOPLE v. McKINLEY (Not for Publication)**
The judgment is affirmed.
BUTZ, J.
We concur: Scotland, P.J.
Nicholson, J.
- C046219 THE PEOPLE v. MEJIA (Not for Publication)**
The judgment is affirmed.
BUTZ, J.
We concur: Sims, Acting P.J.
Raye, J.
- C043760 WILSON et al. v. POIDMORE et al. (Not for Publication)**
The judgment is affirmed. The Poidmores are awarded their costs and attorney's fees on appeal in an amount to be determined by the trial court. (Cal. Rules of Court, rules 27 (a)(1), 870.2.)
BLEASE, Acting P.J.
We concur: Nicholson, J.
Raye, J.
- C046489 In re L.S. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. DEBRA L. (Not for Publication)**
The order terminating appellant's parental rights is affirmed.
RAYE, J.
We concur: Sims, Acting P.J.
Butz, J.
- C046926 In re A.C.; CALAVERAS WORKS AND HUMAN SERVICES AGENCY v. GERGORY M. (Not for Publication)**
The orders of the juvenile court are affirmed.
RAYE, J.
We concur: Sims, Acting P.J.
Butz, J.

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At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Raye, Associate Justice; Butz, Associate Justice; and Facey, bailiff.

C042241 THE PEOPLE v. GONZALES

Cause called. Rebecca P. Jones, court appointed counsel, argued for appellant. Clifford E. Zall, Deputy Attorney General, argued for respondent. Cause submitted.

C044177 BALEME v. CAMEAUX et al.

Cause called. Richard L. Shencopp argued for appellant. Scott A. Bovee argued for respondents. Cause submitted.

C046473 PATERNO et al. v. THE SUPERIOR COURT OF YUBA COUNTY and STATE OF CALIFORNIA et al.

Cause called. David Collins argued and Lloyd Hinkelman appeared only for petitioners. Sterling Smith, Deputy Attorney General, argued and Carl R. Lindmark appeared only for real parties in interest. Cause submitted

At 10:47 a.m., the court recessed until 9:30 a.m., Friday, September 24, 2004.

C041332 THE PEOPLE v. ROBINSON

(Not for Publication)

The judgment is affirmed.
MORRISON, J.
We concur: Scotland, P.J.
Butz, J.

C043378 THE PEOPLE v. GUTIERREZ

(Not for Publication)

The judgment is modified... As modified, the judgment is affirmed.
HULL, J.
We concur: Raye, Acting P.J.
Robie, J.

**C043739 THE PEOPLE v. MARTIN, JR.
C043840**

(Not for Publication)

The judgment is affirmed.
SCOTLAND, P.J.
We concur: Nicholson, J.
Robie, J.

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- C044765 THE PEOPLE v. RUTT (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Scotland, P.J.
Sims, J.
- C044831 THE PEOPLE v. ARMSTRONG (Not for Publication)**
The judgment is reversed and the cause remanded to the trial court.
Upon motion by defendant made within 45 days of the date the remittitur is filed in the superior court, the court shall vacate defendant's no contest pleas. If defendant does not move to withdraw his plea, the trial court shall reinstate the judgment and correct the abstract of judgment to show that the subtotal for concurrent prison sentences for counts 21 through 38 is 96 years rather than 94 years, and that the subtotal for (concurrent) enhancements for counts 7 through 20 is 122 years rather than 112 years. The court shall forward a certified copy of the corrected abstract to the Department of Corrections.
HULL, J.
We concur: Davis, Acting P.J.
Robie, J.
- C045982 THE PEOPLE v. ZEPEDA (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Davis, J.
Nicholson, J.
- C045182 DeGRACE v. HARING, as Trustee, etc. (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
I concur: Davis, J.
I concur in the result:
Scotland, P.J.

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September 24, 2004

At 9:33 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Morrison, Associate Justice; and Guzman, bailiff.

**C046311 In re TRISTAN R.; TRINITY COUNTY HEALTH & HUMAN SERVICES
v. SETH R.**

**C046321 In re JOHNATHON S.; TRINITY COUNTY HEALTH & HUMAN SERVICES
v. SETH R.**

Cause called. Linda J. Conrad, court appointed counsel, argued and submitted additional citations for appellant. Jeanette Palla, county counsel, argued for respondent. Cause submitted.

At 10:05 a.m., the court recessed. At 10:08 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C039617 LONICKI v. SUTTER HEALTH CENTRAL

Cause called. Martin Jennings argued for appellant. Charity Kenyon argued for respondent. Cause called.

At 10:38 a.m., the court recessed. At 10:44 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

C045864 TOLIN v. DEPARTMENT OF HEALTH SERVICES et al.

Cause called. Charles J. Katz argued for appellant. Susan E. Slager, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:22 a.m., the court recessed. At 11:26 a.m., the court reconvened with Sims, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

C045728 ROMAS v. HARKEY and York, et al.

Cause called. C. Athena Roussos argued for appellant. Thomas L. Riordan argued for respondents. Cause submitted.

At 11:51 a.m., the court recessed. At 2:03 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; Robie, Associate Justice.

C045849 ABRAMS v. WALDREP et al.

Cause called. Richard J. Reilley argued for appellant. David A. Depolo argued for respondents. Cause submitted.

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C046335 ABRAMS v. BILLY

Cause called. Richard J. Reilley argued for appellant. John R. Haluck argued for respondent. Cause submitted.

At 2:30 p.m., the court recessed. At 2:35 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Nicholson, Associate Justice.

**C042184 TESCO CONTROLS, INC. v. MONTEREY MECHANICAL COMPANY and
FIREMAN'S FUND INSURANCE et al.**

Cause called. Timothy L. McInerney argued for appellants. Jay-Allen Eisen argued for respondent. Cause submitted.

At 3:00 p.m., the court recessed. At 3:14 p.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C044669 SEVILLA et al. v. WYLIE

Cause called. Gary L. Simms argued for appellant. Bonnie R. Cohen argued and James V. Nolan appeared only for respondent. Cause submitted.

At 3:56 p.m., the court recessed. At 4:01 p.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

C042024 THE PEOPLE v. LARSON

Cause called. Michael Satris, court appointed counsel, argued for appellant. Paul E. O'Connor argued for respondent. Cause submitted.

At 4:41 p.m., the court recessed until, 9:30 a.m., Monday, September 27, 2004.

C043174 THE PEOPLE v. JOHNSON

(Not for Publication)

The judgment is affirmed.

BUTZ, J.

We concur: Davis, Acting P.J.
 Morrison, J.

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C045219	THE PEOPLE v. GRANT	(Not for Publication)
	The judgment is affirmed.	
	RAYE, J.	
	I concur in the result:	
	Blease, Acting P.J.	
	I concur: Nicholson, J.	